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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,448	07/26/2001	Edward Covannon	82990F-P	7353

7590

01/22/2004

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EXAMINER

HOTALING, JOHN M

ART UNIT

PAPER NUMBER

3713

13

DATE MAILED: 01/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/915,448

Applicant(s)

COVANNON ET AL.

Examiner

John M Hotaling II

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 47-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 47-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 47-72 are rejected under 35 U.S.C. 102(e) as being anticipated by Gershman et al US Patent 6,401,085. The previous rejections are maintained and incorporated herein. Gershman is a mobile communication system that facilitates web-based information system with a hand held wireless retrieval and display system (one embodiment is a personal digital assistant (PDA)) with internet capability and a built in or attached bar code reader where each member owns and maintains his or her own profile. See the abstract and columns 3, and 37-39. Columns 4 and 5 disclose that the system may be implemented on different platforms and operating systems. Columns 13-15 disclose that a restriction criterion is settable by a user according to the user's preference. Column 33 discloses that a users request may be returned in the format of a URL. Column 41 along with figure 13 discloses the formation of personal profiles that

contain a username, password, a unique identifier, profiles, and profile restrictions. Column 48 discloses maintaining user profiles with a combination of user specified information and system learned and extrapolated data from the user information and activities. Column 48 also discloses that the system can attempt to determine by observation and cues from the environment, where the users are or are likely to be located. Column 60 discloses that the system can incorporate GPS, bio-sensors and environmental sensors into the device for a plurality of additional functions. With respect to the claim limitations that the home computer manages a profile the instant application teaches on pages 8 and 9 interconnectivity between computer systems is well known and therefore as long as there is a computer that manages and stores the user profiles and is accessible to the users of the system the requirement that it be on a home computer is overcome and the home computer can be considered to be a central server. The agent or software program of Gershman does indeed control certain aspects of the device such as which information to display to the user based on a user profile or request by the user and the device is more than capable of being used by a parent with a child. Figure 1a discloses where the user with the device communicates with a plurality of devices. Gershman discloses in column 48 also discloses that the system can attempt to determine by observation and cues from the environment, where the users are or are likely to be located. This is a means for obtaining information related to the environment. Column 38:50-39:25 disclose that intelligent agents use a user profile to provide advice, and learn about the user, improving the services they deliver. Column 48 lines 13-55 discloses the user profile is maintained and updated by

the user and the intelligent agent coordinator which uses learned and extrapolated data from each users information and activities. Column 60 discloses that the system can incorporate GPS, bio-sensors and environmental sensors into the device for a plurality of additional functions. Column 61:67-62:2 discloses that by using advanced profiling and filtering, the intelligent agents learn about the user, improving the services they deliver. These are aspects of the devices environment and use and personnel profile.

Response to Arguments

Applicant's arguments filed 12/1/03 have been fully considered but they are not persuasive.

With respect to the applicant's arguments that the Gershman reference does not provide self generating information based on information the device obtains independently please see the rejection that by using advanced profiling and filtering, the intelligent agents learn about the user, improving the services they deliver.

With respect to the applicants argument that claim 51 that the interactive device includes interaction with a second device please see the rejection above.

With respect to the applicants argument that claim 58 includes the ability of the device to construct and/or adjust the personal profile please see above where this clearly laid out.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M Hotaling II whose telephone number is 703 305 0780. The examiner can normally be reached on Mon-Thurs 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on (703) 308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-7777.

JOHN M. HOTALING, II
PRIMARY EXAMINER

January 20, 2004

